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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,106	01/12/2007	Markus Eiswirth	095309.57533US	7182
23911 7590 08/12/2009 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
LIU, JONATHAN				
ART UNIT		PAPER NUMBER		
3673				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,106

Applicant(s)

EISWIRTH, MARKUS

Examiner

JONATHAN J. LIU

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/31/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-13, 15-20, 22-24, 27-28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. (US 6,735,797) in light of Ruehl (US 5,790,997), and in further view of Cutler et al. (US 6,375,630). Long et al. disclose a driver's cab for a utility vehicle provided with a sleeping area which has a mattress. While Long et al. do disclose a mattress (15), Long et al. are silent to whether the mattress is a multipart cushion. Primarily, it would have been obvious to one of ordinary skill in the art to apply such multipart construction with the invention to Long et al., in order to prevent "bunching-up" of the mattress at the vertices. This is further evidenced by Ruehl et al. whom teach a multipart mattress cushion (8, 10, 12) mounted on an articulating bed. Long et al. and Ruehl are analogous because they are from the same problem solving area, i.e. adjustable supports. It would have been obvious to modify the invention to Long et al. with the multipart cushion of Ruehl. The motivation would have been to prevent "pinching/bunching-up" at the vertices of the mattress (when the individual sections are articulated), thereby increasing the comfort level of the user. Therefore, it would have been obvious to modify the invention to Long et al. as specified in claim 1. Accordingly, Long et al. as modified, teaches a first cushion part (above section 76 of

Long) designed as a head cushion, a second cushion part (above section 80 of Long) designed as a foot cushion, and a third cushion part (above section 88 of Long) designed as a back cushion. However, Long et al. do not teach a massage device. Cutler et al. teach a massage device (e.g. 10, 12) in a back cushion (20 or 22), which by vibrating movements, is designed to massage a back region of a person lying in the sleeping area. It would have been obvious to include the massage device of Cutler et al. with the invention to Long et al. The motivation would have been to increase the comfort level of the user, e.g. by alleviating back pain, etc. Therefore, it would have been obvious to modify the invention to Long et al. as specified in claim 1.

In regards to claim 12, the back cushion which is a massage device is interchangeable.

With regards to claims 13 and 24, the massage device is designed as an electrically, pneumatically, or hydraulically operated massage device.

Regarding claims 15 and 27-28, the foot cushion has a leg support surface which can be adjusted by way of a lifting device (Long: 30).

In regards to claim 16, the lifting device is designed to be integrated into the foot cushion (Long: see figure 2).

With regards to claim 17, while Long et al. is silent to whether the multipart mattress cushion is arranged such that it rests on a storage box, Long et al. do disclose that the multipart mattress cushion is arranged on a flat surface (Long: 12), and as shown in figure 1, such flat surface is clearly capable of being a storage box. Thus, it

would have been obvious to one of ordinary skill in the art to arrange the mattress cushion on a storage box, in order to save room inside the cab.

In regards to claim 18, it would have been obvious to one of ordinary skill in the art to include an electric connection in the storage box for supplying the massage device with power (since the massage system requires an electrical connection to operate), in order to simultaneously power the massage system while hiding the wires/components of the system.

Regarding claim 19, the massage device has a control device (Cutler: 36) which has a plurality of preselectable massage program sequences, a preselectable timer, or both a plurality of preselectable massage program sequences and a preselectable timer.

In regards to claim 20, the head cushion, the foot cushion, and the back cushion are at the same height so that, when the supporting surface for the mattress cushions is flat, a flat reclining surface is produced.

With regards to claim 22, the multipart mattress cushion adjoins a wall of the driver's cab (Long: see figure 1).

In regards to claim 23, while Long et al. are silent to whether the driver's cab has an electric, pneumatic, or hydraulic connection, such would have been within an ordinary level of skill in the art, since most conventional devices use some sort of electrical connection. Thus, it would have been obvious to include such a connection within the driver's cab, in order to use/power the massage system.

Regarding claim 30, Long et al. as modified, teaches a multipart mattress adapted for use in a driver's cab for a utility vehicle provided with a sleeping area, comprising: a first cushion (above section 76 of Long) part designed as a head cushion, a second cushion part (above section 80 of Long) designed as a foot cushion, and a third cushion part (above section 88 of Long) designed as a back cushion, wherein the back cushion is a massage device (Cutler: 10, 12) which, by vibrating movements, is designed to massage a back region of a person lying on the sleeping area.

3. Claims 14, 25-26, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. (US 6,735,797) in view of Ruehl (US 5,790,997) and Cutler et al. (US 6,375,630) as applied to claim 11, and in further view of Frydman (US 6,345,401). Long et al. as modified, teaches the inventions of claims 11-13. However, Long et al. as modified, does not teach wherein the head cushion has a neck support. Frydman teaches a head cushion (20) comprising an ergonomically shaped neck support (22, or 24). It would have been obvious to one of ordinary skill in the art to include a neck support (similar to that of Frydman) within the head cushion of Long et al. The motivation would have been to support the natural contour of the cervical spine of the user, thereby increasing the comfort level of the user. Therefore, it would have been obvious to modify the invention to Long et al. as specified in claims 14 and 25-26.

In regards to claim 29, the foot cushion has a leg support surface which can be adjusted in height by way of a lifting device (Long: 30).

4. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. (US 6,735,797) in view of Ruehl (US 5,790,997) and Cutler et al. (US 6,375,630) as

applied to claim 15, and in further view of Anderson et al. (US 4,144,601). Long et al. as modified, teach the invention of claim 15. However, Long et al. as modified, do not teach wherein the lifting device is a scissors-type lifting device. Anderson et al. teach an adjustable bed comprising a scissors-type lifting device (20a, 20b). Long et al. and Anderson et al. are analogous because they are from the same problem solving area, i.e. adjustable supports. It would have been obvious to one of ordinary skill in the art to include the scissors-type lifting device of Anderson with the invention to Long et al. The motivation would have been to provide an alternative expedient to raise/lower the foot cushion of Long et al. Therefore, it would have been obvious to modify the invention to Long et al. as specified in claim 21.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN J. LIU whose telephone number is (571)272-8227. The examiner can normally be reached on Monday through Friday, 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JONATHAN J LIU
Examiner
Art Unit 3673

/J. J. L./
Examiner, Art Unit 3673

/Robert G. Santos/
Primary Examiner, Art Unit 3673